

## CONFIDENTIALITY

Family Educational Rights and Privacy Act (FERPA)  
Health Insurance Portability and Accountability Act (HIPAA)

### STATEMENT OF PURPOSE:

All school personnel should follow confidentiality practices required for student education and health records.

### AUTHORIZATION/LEGAL REFERENCES:

- 18 V.S.A. Chapter 21 § 1124 - Access to Records
- Secretary of Health & Human Services letter referencing FERPA and HIPAA relationship, September 1, 2004

### DEFINITIONS:

**Confidential Health Information** - personal, sensitive, information obtained most often by a health professional concerning the physical, developmental, or mental health of an individual.

**Duty to Warn** – a communication disclosing information to prevent danger to others or self.

**Legitimate Education Interest** - information conveyed to educational personnel that will directly benefit the student in their education setting.

### REQUIRED SCHOOL NURSE/ASSOCIATE SCHOOL NURSE ROLES:

1. Establish and maintain a separate health record for each student.
  2. Maintain records in a secure, locked (suggestion: fire proof cabinet) file.
  3. Obtain written release of information form from parents/guardians regarding the sharing of information or obtaining information with professional resources outside of school for children under 18 years of age. Students who are 18 years of age are deemed independent and must grant consent for sharing of information.
  4. Establish nursing protocol for sharing of health information that falls under the "duty to warn" parameters with education staff and volunteers.
  5. Know your school district's definition of "legitimate educational interest" and follow procedures when sharing health information with educational staff.
  6. Establish with administration protocol for storing of sensitive records (i.e. psychiatric evaluations, child abuse reports, hospital reports).
  7. Establish protocols around phone and electronically transmitted health sensitive information.
  8. Establish protocols for disposition and storage of health records upon student's graduation.
  9. Establish protocols maintaining confidentiality as it relates to other personnel, clinic assistants, and other unlicensed volunteers.
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**RESOURCES:**

Schwab, N.C., Gelfman, M.H., *Legal Issues in School Health Services*, Sunrise River Press, 2001

**SAMPLE POLICIES, PROCEDURES, AND FORMS:**

- Confidentiality Best Practices
- Release of Information Form

## CONFIDENTIALITY BEST PRACTICES

1. The school health record is subject to Family Educational Rights to Privacy Act (FERPA) and should include only health data relevant to the student's educational needs. Parents may access their child's educational/health record. It is recommended that the nurse be present when the health record is reviewed to answer any health-related questions.
  2. "Generally, school must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent to the following parties or under the following conditions (34 CFR §99.31):
    - School officials with legitimate educational interest;
    - Other schools to which a student is transferring;
    - Specified officials for audit or evaluation purposes;
    - Appropriate parties in connection with financial aid to a student;
    - Organizations conducting certain studies for or on behalf of the school;
    - Accrediting organizations;
    - To comply with a judicial order or lawfully issued subpoena;
    - Appropriate officials in cases of health and safety emergencies; and
    - Juvenile justice system, pursuant to specific State law."
  3. Personal information belongs to the individual and his/her family and only they have a right to decide whether information should be disclosed to others. Confidential information (i.e. HIV results) should not be shared with staff (including administration), even with 'legitimate educational interest' unless there is the expressed written permission from the parent. (This information is not needed for the health/safety of the student and does not impact their education, nor does it impact the staff as universal precautions are practiced with all students.)
  4. Parent and nurse together determine with whom health information can be shared based on "who needs to know" for the health and safety of the child.
  5. All verbal or written requests for transferring or communication health information must include written permission from the parent or guardian.
  6. Appropriate health personnel shall have access to student immunization records, when such access is required in the performance of official duties relating to immunizations.
  7. Many school nurses keep sensitive health information in a separate personal record that is only for the nurse or the substitute nurse to access. (This record would be subject to disclosure to a parent under court order or subpoena.) Some nurses may choose not to keep a written record of sensitive information, but that practice does not follow the suggested Standards of Nursing Care in which documentation is stressed for best practice.
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## Sample Authorization for Release of Medical Information

Date: \_\_\_\_\_

To: Primary Care Provider \_\_\_\_\_  
(name & address)

\_\_\_\_\_

\_\_\_\_\_

From: Parent/Guardian \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please send information about my child \_\_\_\_\_ whose date  
of birth is \_\_\_\_\_ to:

Health Services Office  
Anywhere Elementary School  
123 School Street  
Anywhere, US 12345

Please send all pertinent information regarding \_\_\_\_\_

\_\_\_\_\_

Signature of  
Parent/Guardian: \_\_\_\_\_

\_\_\_\_\_